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12 *Defendants Russell Road Food and Beverage, LLC*
13 *d/b/a Crazy Horse III and*
14 *SN Investment Properties, LLC*

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 EMILY SEARS, NAJOME COLON
13 aka GIA MACOOL, RACHEL
14 BERNSTEIN a/k/a RACHEL
15 KOREN, LUCY PINDER and
16 MARIANA DAVALOS,

Case No.: 2:19-CV-01091-APG-NJK

17 **STIPULATED PROTECTIVE ORDER**

18 Plaintiffs,

19 vs.

20 RUSSELL ROAD FOOD AND
21 BEVERAGE, LLC d/b/a CRAZY
22 HORSE III GENTLEMEN'S CLUB; and
23 SN INVESTMENT PROPERTIES, LLC
24 d/b/a CRAZY HORSE III
25 GENTLEMEN'S CLUB

26 Defendant.

27 Plaintiffs EMILY SEARS, NAJOME COLON aka GIA MACOOL, RACHEL
28 BERNSTEIN a/k/a RACHEL KOREN, LUCY PINDER and MARIANA DAVALOS
(collectively, "Plaintiffs") and Defendants RUSSELL ROAD FOOD AND BEVERAGE, LLC
D/B/A CRAZY HORSE III GENTLEMEN'S CLUB ("Russell Road"), and SN INVESTMENT
PROPERTIES, LLC ("SN Investment") (collectively, "Defendants") (the, Plaintiffs and

1 Defendants may be collectively referred to herein as the, "Parties") stipulate and agree as follows:

2 WHEREAS, this action is a dispute involving claims by Plaintiffs' for what they allege to
3 be Lanham Act violations, purported violations of Plaintiffs' right to publicity and negligence
4 claims, which Defendants dispute in their entirety ("Action");
5

6 WHEREAS, the Parties agree that discovery in this case may involve the production of
7 confidential, proprietary and/or private information for which special protection from public
8 disclosure may be warranted.

9 WHEREFORE, the Parties hereby stipulate to and petition the court to enter the following
10 Stipulated Protective Order.

11 I. Definitions

13 a. Challenging Party: a Party or Non-Party that challenges the designation of information
14 or items under this Order.

15 b. CONFIDENTIAL" Information or Items: information (regardless of how it is generated,
16 stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil
17 Procedure 26(c).

18 c. Counsel (without qualifier): Outside Counsel of Record and In-House Counsel (as well
19 as their support staff).

20 d. Designating Party: a Party or Non-Party that designates information or items that it
21 produces in disclosures or in responses to discovery as "CONFIDENTIAL."

22 e. Disclosure or Discovery Material: all items or information, regardless of the medium or
23 manner in which it is generated, stored, or maintained (including, among other things, testimony,
24 transcripts, and tangible things), that are produced or generated in disclosures or responses to
25 discovery in the Action.

26 f. Expert: a person with specialized knowledge or experience in a matter pertinent to the
27 litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
28 consultant in the Action.

1 g. House Counsel: attorneys who are employees of a Party to the Action. House Counsel
2 does not include Outside Counsel of Record or any other outside counsel.

3 h. Non-Party: any natural person, partnership, corporation, association, or other legal entity
4 not named as a Party to the Action.

5 i. Outside Counsel of Record: attorneys who are not employees of a Party to the Action
6 but are retained to represent or advise a party to the Action and have appeared in the Action on
7 behalf of that Party or are affiliated with a law firm which has appeared on behalf of that Party.

8 j. Party: any party to the Action, including all of its officers, directors, employees,
9 consultants, Experts, and Outside Counsel of Record (and their support staffs).

10 k. Producing Party: a Party or Non-Party that produces a Disclosure or Discovery Material
11 in the Action.

12 l. Professional Vendors: persons or entities that provide litigation support services (e.g.,
13 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
14 storing, or retrieving data in any form or medium) and their employees and subcontractors.

16 m. Protected Material: any Disclosure or Discovery Material that is designated as
17 "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY."

18 n. Receiving Party: a Party that receives Disclosure or Discovery Material from a
19 Producing Party.

20 II. Scope

21 The protections conferred by this Stipulation and Order cover not only Protected Material
22 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)
23 all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
24 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

25 Protected Material shall not be published or reproduced in any manner on the internet,
26 blogs, bulletin boards, email, newspaper magazines, bulletins, marketing material, or social
27 media, or other media available publicly or privately.

28 Protected Material may be copied or reproduced only to the extent reasonably necessary

1 for this Action, and this Action only. All such copies or reproductions shall be subject to the
2 terms of this Protective Order.

3 However, the protections conferred by this Stipulation and Order do not cover the
4 following information:

5 (a) any information that is in the public domain at the time of disclosure to a Receiving
6 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of
7 publication not involving a violation of this Order, including becoming part of the public record
8 through trial or otherwise; and

9 (b) any information known to the Receiving Party prior to the disclosure or obtained by
10 the Receiving Party after the disclosure from a source who obtained the information lawfully
11 and under no obligation of confidentiality to the Designating Party.

12 Any use of Protected Material at trial shall be governed by a separate agreement or order.

13 **III. Duration**

14 Even after final disposition of this litigation, the confidentiality obligations imposed by
15 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court
16 order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all
17 claims and defenses in this Action, with or without prejudice; and (2) final judgment herein after
18 the completion and exhaustion of all appeals, re-hearings, remands, trials, or reviews of this
19 Action, including the time limits for filing any motions or applications for extension of time
20 pursuant to applicable law.

22 **IV. Designating Protected Material**

23 A. Designation for Information in Documentary Form (e.g., paper or electronic
24 documents, but excluding transcripts of depositions or other pretrial or trial proceedings).

25 1. The Producing Party shall affix the legend "CONFIDENTIAL" or
26 "ATTORNEYS EYES ONLY" to each page that contains Protected Material. If only a portion
27 or portions of the material on a page qualifies for protection, the Producing Party also must
28 clearly identify the protected portion(s).

1 2. A Party or Non-Party that makes original documents or materials available for
2 inspection need not designate them for protection until after the inspecting Party has indicated
3 which material it would like copied and produced. During the inspection and before the
4 designation, all of the material made available for inspection shall be deemed conditionally
5 **CONFIDENTIAL**.

6 3. After the inspecting Party has identified the documents it wants copied and
7 produced, the Producing Party must determine which documents, or portions thereof, qualify for
8 protection under this Order. Then, before producing the specified documents, the Producing Party
9 must affix "CONFIDENTIAL" or "ATTORNEYS EYES ONLY" to each page that contains
10 Protected Material. If only a portion or portions of the material on a page qualifies for protection,
11 the Producing Party also must clearly identify the protected portion(s).

12 B. Designation for Deposition Testimony/Hearings

13 1. The Designating Party may invoke on the record (before the deposition, hearing,
14 or other proceeding is concluded) a right to have up to seven (7) days after receipt of the transcript
15 to identify the specific portions of the testimony as to which protection is sought. Only those
16 portions of the testimony that are actually designated for protection within the 7-day period shall
17 be covered by the provisions of this Order. Alternatively, a Designating Party may specify, at the
18 deposition or up to 7 days afterwards if that period is properly invoked, that the entire transcript
19 shall be treated as "CONFIDENTIAL."

20 2. Parties shall give the other parties notice if they reasonably expect a deposition,
21 hearing, or other proceeding to include Protected Material. The use of a document as an exhibit
22 at a deposition shall not in any way affect its designation as "CONFIDENTIAL."

23 3. Transcripts containing Protected Material shall have an obvious legend on the
24 title page that the transcript contains Protected Material, and the title page shall be followed by a
25 list of all pages (including line numbers as appropriate) that have been designated as Protected
26 Material and the level of protection being asserted by the Designating Party. The Designating
27 Party shall inform the court reporter of these requirements.

1 4. A transcript that is prepared before a timely designation shall be treated during
2 that period as conditionally CONFIDENTIAL in its entirety unless otherwise agreed. After the
3 expiration of the designation period, the transcript shall be treated only as actually designated.
4

5 C. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
6 designate qualified information or items does not, standing alone, waive the Designating Party's
7 right to secure protection under this Order for such material. Upon timely correction of a
8 designation, the Receiving Party must make reasonable efforts to assure that the material is treated
9 in accordance with the provisions of this Order.

10 V. Challenging Confidentiality Designations

11 A. Timing of Challenges. Any Party or Non-Party may challenge a designation of
12 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
13 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
14 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
15 challenge a confidentiality designation by electing not to mount a challenge promptly after the
16 original designation is disclosed.

17 B. Meet and Confer. The Challenging Party shall initiate the dispute resolution
18 process by providing written notice of each designation it is challenging and describing the basis
19 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written
20 notice must recite that the challenge to confidentiality is being made in accordance with this
21 specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in
22 good faith and must begin the process by conferring directly (in voice to voice dialogue; other
23 forms of communication are not sufficient) within 14 days of the date of service of notice. In
24 conferring, the Challenging Party must explain the basis for its belief that the confidentiality
25 designation was not proper and must give the Designating Party an opportunity to review the
26 designated material, to reconsider the circumstances, and, if no change in designation is offered,
27 to explain the basis for the chosen designation. A Challenging Party may proceed to the next stage
28 of the challenge process only if it has engaged in this meet and confer process first or establishes

1 that the Designating Party is unwilling to participate in the meet and confer process in a timely
2 manner.

3 C. Judicial Intervention. If the Parties cannot resolve a challenge without court
4 intervention, the Designating Party shall file and serve a motion to retain confidentiality under
5 Civil Local Rule 79-1 (and in compliance with Civil Local Rule 79-1, if applicable) within 21
6 days of either: the parties agreeing that the meet and confer process will not resolve their dispute;
7 or a participating party's written notification that it is withdrawing from the meet and confer
8 process. Each such motion must be accompanied by a competent declaration affirming that the
9 movant has complied with the meet and confer requirements imposed in the preceding paragraph.
10 Failure by the Designating Party to make such a motion including the required declaration within
11 21 days shall, upon 7 court days' written notice from a Challenging Party, automatically waive
12 the confidentiality designation for each challenged designation. In such case the Designating Party
13 may file a motion for relief from the waiver within 7 court days after the Challenging Party's
14 written notice of waiver. In addition, the Challenging Party may file a motion challenging a
15 confidentiality designation at any time if there is good cause for doing so, including a challenge
16 to the designation of a deposition transcript or any portions thereof. A Challenging Party filing a
17 motion pursuant to this provision must have complied with the foregoing meet and confer
18 requirements and time limitations. Any such motion must be accompanied by a competent
19 declaration affirming that the movant has complied with the meet and confer requirements
20 imposed by the preceding paragraph.

22 The burden of persuasion in any such challenge proceeding shall be on the Designating
23 Party. Unless the Designating Party has waived the confidentiality designation by failing to file
24 a motion to retain confidentiality as described above, all parties shall continue to afford the
25 material in question the level of protection to which it is entitled under the Producing Party's
26 designation until the Court rules on the challenge.

27 VI. Access To And Use Of Protected Material

28 A Receiving Party may use Protected Material that is disclosed or produced by another Party or

1 by a Non-Party in connection with this case only (and no other case) for prosecuting, defending,
2 or attempting to settle this litigation. Protected Material may not be used for any other purposes,
3 including any other litigation, whether on the same issues in this case or others, or for any business
4 or personal purpose. Unless otherwise ordered by the Court or permitted in writing by the
5 Designating Party, a Receiving Party may disclose any information or item designated
6 "CONFIDENTIAL" or "ATTORNEYS EYES ONLY" to:

- 7 1. The officers, directors, and employees (including House Counsel) of the Receiving
8 Party to whom disclosure is reasonably necessary for this litigation
- 9 2. Experts of the Receiving Party to whom disclosure is reasonably necessary for this
10 litigation;
- 11 3. The Court and its personnel;
- 12 4. Court reporters and their staff, professional jury or trial consultants, and Professional
13 Vendors to whom disclosure is reasonably necessary for this litigation;
- 14 5. During their depositions or other testimony other oath, witnesses in the Instant Action to
15 whom disclosure is reasonably necessary. Pages of transcribed deposition testimony or exhibits
16 to depositions that reveal Protected Material must be separately bound by the court reporter and
17 may not be disclosed to anyone except as permitted under this Order;
- 18 6. The author(s) or recipient(s) of a document containing the information or a custodian or
19 other person who otherwise possessed or knew the information;
- 20 7. Counsel for the parties, including their employees and any other individual or entity
21 performing reasonable and necessary services to counsel in the litigation of the Instant Action.
22 Prior to disclosing any "CONFIDENTIAL" or "ATTORNEYS EYES ONLY" information to
23 any person listed above (other than Counsel, persons employed by Counsel, Court Personnel
24 and stenographic reporters, and the parties or their designated representatives), Counsel for the
25 Receiving Party shall provide such person with a copy of this Protective Order and obtain from
26 such person a written acknowledgment stating that he or she has read this Protective Order and
27 agrees to be bound by its provisions. (See Exhibit A.) All such acknowledgements shall be

1 retained by Counsel and shall be subject to in camera review by the Court if good cause for
2 review is demonstrated by opposing Counsel.

3 **VII. Filing Of Confidential Material**

4 See order issued concurrently herewith.

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6

7 **VIII. Unauthorized Disclosure Of Protected Material**

8 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
9 Material to any person or in any circumstance not authorized under this Protective
10 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the
11 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
12 Protected Material, (c) inform the person or persons to whom unauthorized disclosures were
13 made of all the terms of this Order and (d) provide such person with a copy of this Protective
14 Order and use its best efforts to obtain from such person a written acknowledgment stating that
15 he or she has read this Protective Order and agrees to be bound by its provisions (See Exhibit
16 A.). Any unauthorized disclosure of Protected Materials shall be subject to an award of sanctions
17 and/or Order of Contempt subject to the Court's discretion.

18 **IX. Inadvertent Production Of Protected Material**

19 When a Producing Party gives notice to Receiving Parties that certain inadvertently
20 produced material is subject to a claim of privilege or other protection, the obligations of the
21 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
22 provision is not intended to modify whatever procedure may be established in an e-discovery
23 order that provides for production without prior privilege review.

24 **X. Destruction of Protected Material**

25 At the conclusion of this case, all Receiving Parties shall destroy all Protected Materials and
26 shall not retain any copies. The Receiving Party shall provide all parties with an affidavit
27 confirming the destruction within ten (10) business days or written demand for the same. In
28

1 order to address and resolve any issue or dispute that may arise after the case concludes, the
2 Producing Party shall retain a copy of all Protected Materials it has produced in ordinary course
3 of its general document retention policies.

4 **XI. Miscellaneous**

5 A. Right to Further Relief. Nothing in this Order abridges the right of any person to
6 seek its modification by the Court in the future.

7 B. Right to Assert Other Objections. By stipulating to the entry of this Order no
8 Party waives any right it otherwise would have to object to disclosing or producing any
9 information or item on any ground whether or not addressed in this Order. Similarly, no Party
10 waives any right to object on any ground to use in evidence of any matter that it would
11 otherwise possess under applicable law.

12 **XII. Modification Or Revocation By Court**

13 The Court may modify or revoke this Order on its own motion in the interests of justice
14 or for public policy reasons or, alternatively upon determination following a properly noticed
15 application for relief from any Party.

16 IT SO STIPULATED.

17 DATED this ____ day of October, 2019:

18 **BENDAVID LAW**

19 */s/ Jeffery A. Bendavid, Esq.*

20 **JEFFERY A. BENDAVID, ESQ.**

21 Nevada Bar No. 6220

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26 *Attorneys for Defendants*

19 **ALVERSON TAYLOR & SANDERS**

20 */s/*

21 **KURT R. BONDS, ESQ.**

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27 *Attorneys for Plaintiffs*

The Court, having considered the stipulation of the Parties and good cause appearing, orders as follows:

The Stipulated Protective Order is approved and shall be followed in this case.

IT IS SO ORDERED.

Dated: October 31, 2019

UNITED STATES MAGISTRATE JUDGE